



# TEXAS CATTLE FEEDERS ASSOCIATION

# ISSUES UPDATE

5501 1-40 W. • AMARILLO, TEXAS • PHONE (806)358-3681 • [www.tcfa.org](http://www.tcfa.org) • [info@tcfa.org](mailto:info@tcfa.org)

## Country-of-Origin Labeling Implementation

September 5, 2008

*(Affidavits/Declarations Modified Since Posting)*

Mandatory country-of-origin labeling (COOL) takes effect on September 30, 2008. COOL requires retailers to provide consumers with country of origin information for all covered commodities, including meat products. Retailers may rely upon affidavits / declarations from their suppliers to determine the origin of covered commodities. Live animals are NOT covered commodities but are processed into covered commodities. Therefore, packers need information such as written statements from producers, animal identification program documentation, or import markings on the animals to determine origin.

USDA published an interim final rule on August 1, 2008, which gives some guidance as to how the law will be implemented. However, we do not know how long it will take USDA to publish a final rule after the public comment period ends on September 30, 2008.

On August 26, 2008, TCFA joined representatives from more than 30 livestock industry organizations and companies in Kansas City, Missouri, to develop standardized documents for verification and transfer of country of origin information through the livestock chain from producers to processors to packers. Those documents are attached below.

An affidavit / declaration is a document that is enforceable in law, and truthfulness is always a provision of sales contracts. False statements may be punishable under perjury laws and could breach contracts, resulting in potential liability for damages.

While two of the attached documents reference first-hand knowledge, this term is not defined in the rule or the statute. However, a reasonable interpretation would be someone who specifically knows the origin of the livestock. Additionally, USDA has stated that composite affidavits / declarations are acceptable meaning an auction market, feedyard, or other point where animals are combined from multiple suppliers can use the affidavits / declarations of those producers to support their own composite affidavit / declaration of origin to pass along to the next purchaser of the animals.

Feedyards or other direct suppliers to packers can use **Document 1.** This affidavit / declaration is intended to be filed once with the packer and will remain in effect until revoked by either party. Feedyards will also need to indicate the origin of specific livestock shipments by adding an "origin" column on show lists or supplying similar language on other documents that offer the livestock for sale to packers. This particular affidavit / declaration also includes language verifying that supporting records will be maintained for one year from the date the referenced livestock are delivered to the packer and grants USDA access to these records for the sole purpose of conducting an audit of a retailer or packer.

Auction markets, order buyers, and other points where animals are combined from multiple sellers also may seek to have sellers sign a continuous affidavit / declaration, such as **Document 2.** This document is intended to be "on file" with the facility to document that all livestock from a particular seller is of a particular origin unless otherwise stated. The document will remain in effect until revoked by either party.

Cow-calf and stocker operators also may find that filing a continuous affidavit / declaration, such as **Document 2**, with their regular purchasers of livestock may be the simplest way to pass along origin information. Another method would be to modify sales documents to incorporate the language of **Document 3**.

Verifying origin through visual inspection is supported by industry groups and companies. The presence or absence of foreign origin markings or tags should constitute first-hand knowledge and be used to support an affidavit / declaration of origin. In other words, if animals do not have official ear tags or import brands from Mexico or Canada, they are of U.S. origin. Given USDA's history of success with monitoring, inspecting, and marking foreign origin livestock entering this country, the industry believes this system provides a reliable basis for verification of origin. Visual inspection for markings to support affidavits / declarations of origin, such as **Document 4**, provides the industry with a tool to verify origin that builds upon accepted and known practices in the industry, avoids burdensome paperwork and trace backs, and is immediately available.

To avoid livestock becoming unmarketable because of insufficient documentation on animals in commerce while government and industry work to determine what level of verification will be necessary, sellers (especially those selling directly to packers) should inspect all of their animals for import markings such as brands, tattoos, and ear tags. Upon completion, visual inspection documents should be retained to support future origin claims.

While industry representatives worked hard to develop standardized documents, some entities may chose to create their own. We encourage producers at all levels to examine the documents carefully and assure that they understand all provisions before signing.

Please contact TCFA staff with any questions.

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## Document 1

### Continuous Country of Origin Affidavit/Declaration

*(Document 1 is the affidavit intended for use by feedyards and others supplying cattle directly to packers.)*

As an affidavit is deemed by USDA as an official record of country of origin, I attest through firsthand knowledge, normal business records, or producer affidavit(s) that all livestock referenced by this document or other communications specific to the transaction and transferred are of \_\_\_\_\_ (country) origin. Should the origin of my livestock become other than that described above, I agree to notify the buyer/agent when this occurs.

I attest that \_\_\_\_\_ (insert business name) has, and will maintain records of livestock origin for one year from the date of delivery of the livestock to the packer/buyer.

I attest that records reflecting specific transactions are available for inspection for the sole purpose of compliance with an audit as described by the country-of-origin labeling provisions contained in the Farm Security and Rural Investment Act of 2002 as amended. (P.L. 108-767, USCA section 1638a, 2003).

This affidavit/declaration shall remain in effect until revoked in writing by the undersigned and is delivered to \_\_\_\_\_ (agent/buyer).

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Business/Farm/Ranch Names

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Locations (Address, City, State, Zip)

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**Document 2**

**Continuous Country of Origin Affidavit/Declaration**

*(Document 2 is the "continuous affidavit" intended for use by cow-calf and stocker operators supplying cattle to auction markets, private buyers, feedyards or other buyers.)*

As an affidavit is deemed by USDA as an official record of country of origin, I attest through firsthand knowledge, normal business records, or producer affidavit(s) that all livestock referenced by this document or other communications specific to the transaction and transferred are of \_\_\_\_\_ (country) origin. Should the origin of my livestock become other than that described above, I agree to notify the buyer/agent when this occurs.

This affidavit/declaration shall remain in effect until revoked in writing by the undersigned and is delivered to \_\_\_\_\_ (agent/buyer).

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Business/Farm/Ranch Names

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Locations (Address, City, State, Zip)

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**Document 3**

**Origin Declaration Language for Seller/Buyer Invoices and Other Sales Documents with a Continuous Declaration on Record or as a Stand-Alone Declaration of Origin**

*(Document 3 is intended for use by cow-calf and stocker operators making an individual transaction.)*

I attest that all livestock referenced by this document and transferred are of \_\_\_\_\_ (country) origin.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Business/Farm/Ranch Names

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Locations (Address, City, State, Zip)

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**Document 4**

**Declaration of Livestock Inspection**

*(Document 4 is a declaration of visual livestock inspection to be kept on file by the seller.)*

I \_\_\_\_\_, employed by \_\_\_\_\_, (insert feedyard name) declare that I have personally inspected the animals of \_\_\_\_\_ (insert pen or lot number) on \_\_\_\_\_ (insert feedyard entrance date) and found:

( ) No markings, tags or other identifying characteristics indicating the livestock's country of origin outside the United States.

( ) Markings, tags, or other identifying characteristics indicating the livestock's country of origin is Canada.

( ) Markings, tags or other identifying characteristics indicating the livestock's country of origin is Mexico.

( ) Markings, tags or other identifying characteristics indicating the livestock's country of origin is \_\_\_\_\_.  
(Insert country.)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Business/Farm/Ranch Names

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Locations (Address, City, State, Zip)